



State of Washington  
REPORT OF EXAMINATION  
FOR WATER RIGHT APPLICATION

File No.: S4-33061  
WR Doc ID: 5241027

<b>PRIORITY DATE</b> April 25, 2012	<b>WATER RIGHT NUMBER</b> S4-33061
<b>MAILING ADDRESS</b> Public Utility District No. 2 of Grant County Public Utility District No. 1 of Chelan County PO Box 878 Ephrata, WA 98823-0878	<b>SITE ADDRESS (IF DIFFERENT)</b> Carlton Acclimation Facility 320A Twisp-Carlton Rd Twisp WA 98856

#### Quantity Authorized for Withdrawal or Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
7.5	CFS	2,499

#### Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Fish Acclimation (nonconsumptive use)	7.5		CFS	2,038		October 1 – February 14
	7.5		CFS	461		May 1 – May 31

**Note:** This water right will be used in conjunction with No. S4-30055 authorizing 14.9 cfs and 2,187 af-ft/yr, February 15 through April 30.

#### Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Okanogan	Methow River	Columbia River	48 - Methow

SOURCE FACILITY/DEVICE	PARCEL	TWN	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Methow River Point of Diversion	5101140002	33N	22E	21	NWSE	48°20'36.80"N	120° 5'20.50"W

Datum: WGS84

### Place of Use (See Map: Attachment 1)

#### PARCEL

5101140002

#### LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

That part of Lot 114 of Furey, East, Pfau, and Musson's Plat No. 1, located in Section 21 of T. 33 N., R. 22 E.W.M., Okanogan County, Washington, further described as follows:

Commencing at the southeast corner of said Lot 114, thence NW 89°40'00", along the southerly boundary line of said Lot 114 (common with the northerly boundary line of a road as platted now know as Duncan Road), for 523.1 feet, thence leaving said boundary line NW 00°19'00" for 257.98 feet to the true point of beginning, thence from said point of beginning, continuing NW 00°19'00" for 627.71 feet to the northerly boundary line of said Plat No. 1, thence along said boundary line NE 85°26'03" (Plat bearing NE 85°28'00") for 219.80 feet, thence NE 82°24'12" (Plat bearing NE 82°29'10") for 20.98 feet, thence leaving said boundary line SE 00°19'00" for 646.66 feet, thence SW 89°41'00" for 240.00 feet to the true point of beginning containing 3.51 acres.

### Proposed Works

The existing Carlton Acclimation Facility is supported by one point of diversion located on the Methow River, approximately 2 miles downriver of Twisp. The point of diversion includes two 60 horsepower (hp) pumps located in a pair of 30-inch diameter tee screens with a high pressure air backwash cleaning system. Together, the existing pumps are capable of a total combined flowrate of 14.9 cubic-feet per second (cfs). Water will be conveyed a short distance by an extension of the existing distribution piping, circulated through eight proposed circular acclimation tanks, and then returned back to the Methow River via the existing outlet, which discharges less than 170 feet downriver from the original point of diversion.

The facility is currently supported by water right No. S4-30055 authorizing 14.9 cfs and 2,187 ac-ft/yr, February 15 through April 30. In addition, control of frazil ice on surface water intake screens and emergency backup water supply will be provided by No. G4-33047.

### Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	June 1, 2015	June 1, 2020

### Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

## Provisions

### Measurements, Monitoring, Metering and Reporting

An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.

### Instream Flow Limitations

When Methow River flows are below the minimum instream flows specified in WAC 173-548-020(2) for control point 12.4499.50, river mile 6.7, Grant PUD may not fill or charge the Carlton Facility's rearing tanks. Base flow hydrographs, as represented by Figure 1 in the document entitled "water resources management program, Methow River basin" dated 1976, shall be used for definition of base flows on those days not specifically identified in WAC 173-548-020(2).

### Department of Fish and Wildlife Requirement(s)

The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). If you have questions about screening criteria contact:

Department of Fish and Wildlife  
Attention: Habitat Program  
600 Capitol Way N  
Olympia, WA 98501-1091

Phone: (360) 902-2534  
Email: [habitatprogram@dfw.wa.gov](mailto:habitatprogram@dfw.wa.gov)  
Fish Screening Criteria:  
<http://wdfw.wa.gov/conservation/habitat/planning/screening/>

A permit from the Department of Fish and Wildlife may be needed to raise fish in any state waters: <http://wdfw.wa.gov/about/regions/>.

No dam or weir shall be constructed in connection with this diversion.

### Easement and Right-of-Way

The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

### Proof of Appropriation

The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

### **Schedule and Inspections**

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

### **Findings of Facts**

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S4-33061, subject to existing rights and the provisions specified above.

### **Your Right To Appeal**

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503  <b>Pollution Control Hearings Board</b> 111 Israel RD SW STE 301 Tumwater, WA 98501	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608  <b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>  
 To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>

Signed at Yakima, Washington, this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

\_\_\_\_\_  
 Mark Kemner, LHG, Section Manger  
 Water Resources Program/CRO  
 Department of Ecology

*If you need this document in an alternate format, please call the Water Resources Program at 509-575-2490. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.*

## BACKGROUND

### Project Description

On April 25, 2012, Public Utility District No. 2 of Grant County (Grant PUD) filed application No. S4-33061 requesting appropriation of public surface water to supply a fish acclimation facility. The applicant proposes to divert 7.5 cubic-feet per second (cfs) and a cumulative annual diversion volume (Qa) of 3,608 acre-feet per year (ac-ft/yr). The purpose of use is for over-winter fish acclimation, October 1 through May 31.

The Carlton Acclimation Facility is located on the south bank of the Methow River in Water Resource Inventory Area (WRIA) 48, approximately 2 miles downriver of Twisp. The large-scale facility will over-winter acclimate up to 220,000 summer Chinook salmon.

**Table 1**  
Summary of Application No. S4-33061

<i>Attributes</i>	<i>Proposed</i>
Applicant	Public Utility District No. 2 of Grant County; and Public District No. 1 of Chelan County
Application Received	April 25, 2012
Instantaneous Quantity	7.5 cubic-feet per second
Source	Methow River
Point of Diversion	NW¼, SE¼, Section 21, T. 33 N., R. 22 E.W.M.
Purpose of Use	Fish Acclimation
Period of Use	October 1 through May 31
Place of Use	Carlton Acclimation Facility within the NW¼, SE¼, Section 21, T. 33 N., R. 22 E.W.M.

### Legal Requirements for Application Processing

The following requirements must be met prior to processing a water right application:

- **Public Notice**  
Notice of the proposed appropriation was published in the Wenatchee World of Wenatchee, Washington, Methow Valley News of Twisp, Washington, and Omak Chronicle of Omak, Washington on July 10 and 17, 2013. No protests were received by Ecology.
- **State Environmental Policy Act (SEPA)**  
A SEPA review of the proposed diversion was completed by Grant PUD and concluded with a Determination of Non-significance issued on June 14, 2012. No comments were received.
- **Water Resources Statutes and Case Law**  
Chapter 90.03 RCW authorizes the appropriation of surface water for beneficial use and describes the process for obtaining a water right. Laws governing the water right permitting

process are contained in RCW 90.03.250 through 90.03.340. Based on the provisions of RCW 43.21A.690 and RCW 90.03.265, this application has been processed by Aspect Consulting, LLC (Aspect Consulting) under Ecology Cost-Reimbursement Agreement No. ASP009 (master contract No. C1000185).

### **Priority Processing**

The Grant PUD requested that Application No. S4-33061 be processed under WAC 173-152-050(2)(c), commonly known as the Hillis Rule. This rule allows Ecology to prioritize the processing of new water right applications that are non-consumptive, and include qualifying measures that substantially enhance or protect the quality of the natural environment.

Guidance regarding classification of water uses as non-consumptive for surface water is given by Ecology's Water Resources Program, Policy POL 1020 (Ecology 1991). The policy defines water use as non-consumptive when "...there is no diversion from the water source or diminishment of the source." Specifically, non-consumptive use at a fish hatchery is defined when water is returned to the same source, in the same quantity as diverted, at a point downstream in close proximity to the point of diversion, and water quality standards are met. Likewise, WAC 173-152-020 defines non-consumptive use when "...there is no diminishment in the overall amount or quality of water in the water source". POL 1020 also specifies that water use to initially fill or charge the system is allowed, subject to instream flows and existing rights.

Ecology recognizes that certain projects may have a small component of water consumption – such as, through an increase in bank storage or evaporation rate. However, as a matter of policy, Ecology classifies these types of projects as non-consumptive (Ecology 1991).

The second criterion for priority processing is that the new use will provide for significant environmental benefit. Grant PUD is committed to mitigate for unavoidable loss from operation of the Priest Rapids Hydroelectric Project. Application No. S4-33061 will directly support enhancement and supplementation of summer Chinook salmon in the Methow River basin. Therefore, Ecology has concluded that the subject applications also meet the environmental enhancement criterion for priority processing under WAC 173-152-050(2)(c).

### **INVESTIGATION**

Aspect Consulting reviewed available documents pertaining to the application's site conditions, projected water usage and demand, and the potential effect on existing water right holders and instream flows. This included the information submitted by the applicant and pertinent Ecology records. Most notably, it included review of the Grant PUD's Hatchery and Genetic Management Plan (HGMP) summarizing the recommendations of the Priest Rapids Coordination Committee (PRCC) Hatchery Subcommittee. Grant PUD must meet the terms and conditions of the Priest Rapids Project Salmon and Steelhead Settlement Agreement for the Priest Rapids Hydroelectric Project. These requirements are incorporated into the new Federal Energy Regulatory Commission (FERC) License, issued April 17, 2008, for continued operation of the Priest Rapids and Wanapum hydroelectric dams located on the Columbia River.

A site visit was performed on July 28, 2011. Tyson Carlson of Aspect Consulting and Kelsey Collins representing Ecology met with Ross Hendrick of the Grant PUD. The site visit included inspection of the proposed point of diversion and place of use, and an interview with the applicant.

### **Project Description**

The PRCC Hatchery Subcommittee oversees the development, implementation, and monitoring of species-specific hatchery programs designed to supplement naturally producing populations, including spring, summer, and fall Chinook, steelhead, sockeye, and coho salmon. The HGMP (Grant PUD 2009) presents the supplementation program specifically designed for summer Chinook salmon in the Methow River. The purpose of the program is to mitigate for unavoidable mortality of summer Chinook salmon at the Priest Rapids and Wanapum Dams as well as to conserve, enhance, and supplement the naturally spawning Methow River summer Chinook salmon. The ultimate goal of the supplementation program is the annual release of up to 220,000 summer Chinook smolts to the Methow River.

Adult holding, spawning, incubation, and early rearing activities will occur outside of the Methow River Basin at the Eastbank Hatchery, but final acclimation will be required at the Carlton Acclimation Facility located within the basin. Fish will be transported from the Eastbank Hatchery to the facility in October, acclimated over the winter, and then released in May to the Methow River.

### **Site Description**

The Carlton Acclimation Facility is an existing facility owned by the Chelan County Public Utility District No. 1 and operated under contract by the Washington Department of Fish & Wildlife (WDFW) to acclimate summer juvenile Chinook salmon. The facility is located approximately 2 miles downriver of Twisp, on the south side of the Methow River in the northwest quarter of the southeast quarter of Section 21, in Township 33 North, Range 22 East Willamette Meridian.

The facility consists of a single membrane-lined earthen acclimation pond and supporting infrastructure, including the river diversion, point of return, and several small buildings for equipment operation, shelter, and storage. The existing point of diversion includes two 60 horsepower (hp) pumps located in a pair of 30-inch diameter tee screens with a high pressure air backwash cleaning system. Together, the existing pumps are capable of a total combined flowrate of 14.9 cfs.

The Grant PUD proposes to develop additional acclimation facilities at the site consisting of eight 30-foot diameter circular acclimation tanks and supporting infrastructure, including additional water distribution and return piping, fish release and tank drain piping, and support buildings. In addition, a groundwater well will be constructed and a distribution manifold will be added to the existing point of diversion to control frazil ice accumulation on the intake screens. Surface water will be conveyed from the point of diversion a short distance by an extension of the existing distribution piping, circulated through eight circular acclimation tanks, and then returned back to the Methow River via the existing outlet, which discharges less than 170 feet downstream from the original point of diversion.

Current operation of the facility is supported by water right No. S4-30055, authorizing 14.9 (cfs) and 2,187 ac-ft/yr, February 15 through April 30. During this period of use (February 15 through April 30), water will be supplied to the new facilities with one of the existing 60-hp pumps. Use of the second pump will be available for simultaneous operation of the existing pond at a reduced capacity. The Chelan PUD will retain capacity to overwinter acclimate 60,516 spring Chinook.

### **Agency Consultation Process**

Ecology has sought consultation with the U.S. Bureau of Reclamation (Reclamation) who controls all unappropriated waters of the Columbia River above Priest Rapids Dam – including all tributaries and groundwater that are in continuity. Reclamation subsequently granted a release of water for the subject application via email received on July 11, 2011.

During the early stages of the application process, the Grant PUD solicited support from numerous entities, including those participating on the PRCC Hatchery Subcommittee – the group responsible for overseeing the development, implementation, and monitoring of specific hatchery programs designed to supplement naturally producing populations of spring, summer, and fall Chinook, steelhead, sockeye, and coho. The group includes technical representatives from NOAA Fisheries, WDFW, the United States Fish and Wildlife Service, and local Native American tribes, including the Tribes and Bands of the Yakama Nation and the Confederated Colville Tribes. PRCC Hatchery Subcommittee support for the Carlton Acclimation Facility is documented in several committee-approved meeting minutes.

### **Water Quality**

WAC 173-221A-100(1)(b) conditionally exempts certain smaller upland hatcheries from the requirement to obtain a wastewater discharge permit, such as the Upland Fin-Fish Hatching and Rearing General NPDES Permit issued by Ecology's Water Quality Program. The site will not produce more than 20,000 pounds of fish in a calendar year. However, as a condition of the exemption, the site must comply with WAC 173-221A-100(2) through (6). .

### **Four Statutory Tests**

This Report of Examination (ROE) evaluates the application based on the information presented above and in referenced FERC relicensing documents. To approve the application, Ecology must issue written findings of fact and determine that each of the following four requirements of RCW 90.03.290 has been satisfied:

1. The proposed appropriation is a beneficial use;
2. Water is available for appropriation;
3. The proposed appropriation would not impair existing water rights; and
4. The proposed appropriation would not be detrimental to the public welfare.

### **Beneficial Use**

In accordance with RCW 90.54.020(1), the proposed appropriation for fish acclimation is a beneficial use of water. As detailed on the Application for Permit, the point of diversion will be supported by the necessary infrastructure to deliver the full appropriation of water to the acclimation facility. The rate at which the water will be diverted is needed to sustain up to 220,000 summer Chinook salmon during the over-winter acclimation period.

The subject water right application will supplement what was previously authorized under No. S4-30055. Use of the existing water right for the new facility will also allow for simultaneous operation of the existing pond at a reduced capacity. Therefore, the Qa and period of use for the subject application has been adjusted to include the additional volume required to fully satisfy the additional period of use.

### **Availability**

Inspection of the 2012 Water Year data indicate that the Methow River just downstream of the Carlton Acclimation Facility (USGE gage No. 12.4499.50), had an annual mean discharge rate of 1,927 cfs, with a daily mean ranging from 275 to 11,200 cfs. Low flows are typically associated with late summer (September) and winter (December through March), while high flows are the result of spring runoff. Flows during the requested period of use are approximately 584 cfs (October), which drop to approximately 350 cfs (November and December) and remain relative steady through April, until

increasing to over 6,687 cfs by the end of May. Compared to the available period of record (1959 to present), the 2012 Water Year was above average.

Based on this data, the quantity of water requested for use in this application is physically available for non-consumptive appropriation. Water will be returned to the Methow River in the same quantity as is diverted, at a point downriver in close proximity (less than 170 feet) to the point of diversion.

### **Potential for Impairment**

RCW 90.03.290 and RCW 90.44.060 require a determination that a new appropriation will not impair existing rights. There are numerous water right certificates, permits, and claims for the Methow River and wells in continuity with the river. However, there are no surface water diversions or wells located in or near the 170-foot bypass reach on the Methow River.

There is also an instream flow rule for the Methow River Basin established as part of an Instream Resources Protection Program (IRPP), Chapter 173-548 WAC to protect water quality, wildlife, fish, and other environmental values, as well as aesthetics, recreation and navigation, and to meet certain future out-of-stream water needs. The IRPP defines minimum instantaneous flows in reaches defined by seven control stations throughout the Basin. The program effectively limits, and in some cases prohibits, the further issuance of consumptive water rights that could interfere with the instream flows established for these specified stream management units.

As defined by the WAC, the control point (stream gage station) that defines the stream management unit most applicable to the application under consideration is 12.449.50 (Methow River near Pateros), extending from the confluence with the Twisp River, downriver to the confluence with Wells Pool of the Columbia River. Minimum instream flows in WAC 173-548-020(2) for this stream management unit are specified year round and fluctuate seasonally from a low of 300 cfs to a high of 2,220 cfs.

Filling or charging of the rearing tanks with approximately 232,000 gallons (or 0.7 acre-feet) of water will be provisioned to occur only if minimum instream flows are met.

Therefore, because the proposed appropriation will not diminish the overall quantity or quality of water in the Methow River between the point of diversion and discharge, there are no other users in the bypass reach, and charging of the facility shall not take place during low flows, no impairment of surface water or groundwater rights is expected to occur.

### **Public Welfare**

No protests to the application were received. The proposed appropriation will support the Grant PUD's obligation to mitigate for the Priest Rapids Hydroelectric Project. Support for the project has been documented by the PRCC Hatchery Subcommittee, which includes NOAA Fisheries, WDFW, the United States Fish and Wildlife Service, and local Native American tribes, including the Tribes and Bands of the Yakama Nation and the Confederated Colville Tribes.

## CONCLUSIONS

The conclusions based on the above investigation are as follow:

1. The proposed appropriation for fish acclimation at the Carlton Acclimation Facility is a beneficial use of water;
2. The quantity of water requested for non-consumptive use in this application is available for appropriation;
3. The proposed non-consumptive appropriation will not impair senior water rights; and
4. The proposed appropriation will not be detrimental to the public interest.

## RECOMMENDATION

Based on the information presented above, the author recommends that the request to non-consumptively appropriate surface water from the Methow River for fish acclimation be approved in the following amounts; and as provisioned on page 1 through 3 of this report.

7.5 cfs, 2,499 ac-ft/yr from October 1 thru February 14 and May 1 thru May 31 for fish acclimation. The point of diversion and place of use are within parcel no. 5101140002 on the south side of the Methow River in the S½ of Section 21, T. 33 N., R. 22 E.W.M.

Report by:

Tyson D. Carlson, LHG, Aspect Consulting, LLC

Date

Reviewed by:

Kelsey S. Collins, Water Resources Program

Date

*If you need this publication in an alternate format, please call Water Resources Program at 360 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.*

## CITATIONS

Ecology 1991. Water Resources Program Policy POL 1020, Consumptive and Non-consumptive Water Use. October 31, 1991.

Ecology 2004. Water Resources Program Policy POL 1021, Priority Processing – Water Budget Neutral Projects. January 21, 2004.

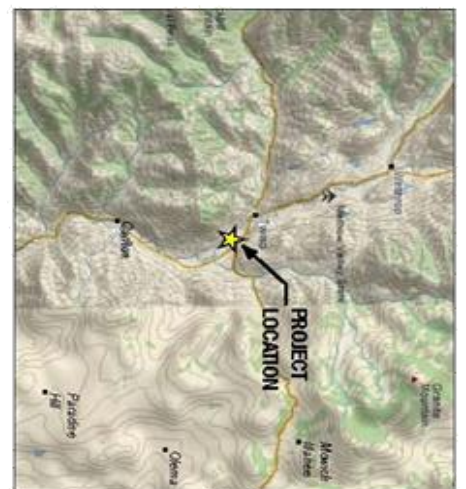
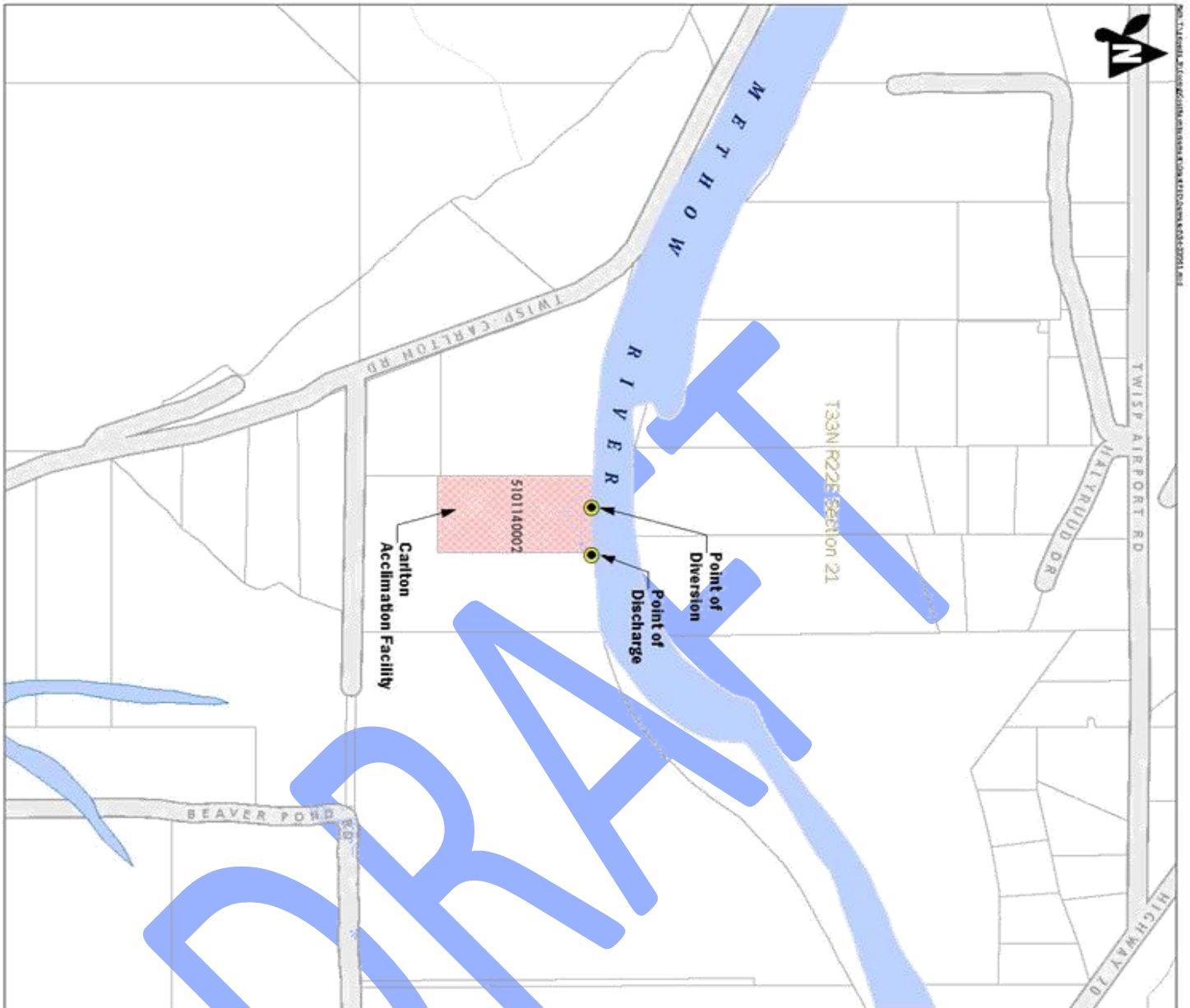
Federal Energy Regulatory Commission 2008. Order Issuing New License. Public Utility District No. 2 of Grant County, Washington. Project No. 2114-116. April 17, 2008.

Grant PUD 2009. Hatchery and Genetic Management Plan (HGMP), Methow Component of the Upper Columbia River Summer Chinook Program – Priest Rapids Project Mitigation. September 30, 2009.

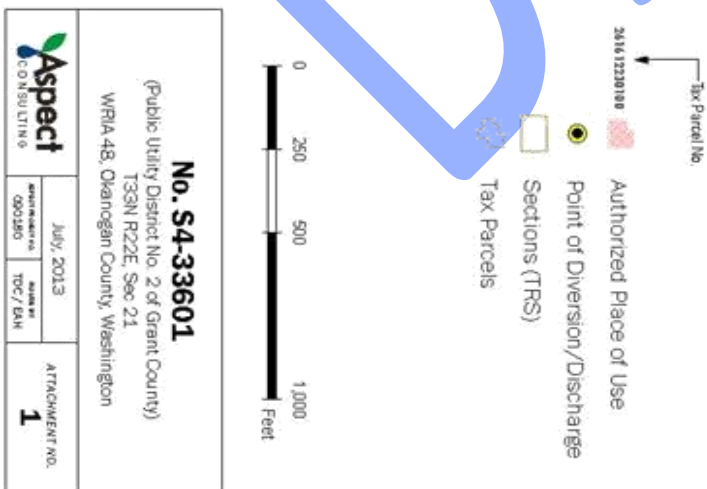
Grant PUD 2006. Priest Rapids Salmon and Steelhead Settlement Agreement. Priest Rapids Salmon and Steelhead Settlement Agreement. February 9, 2006.

NOAA Fisheries. 2008. Biological Opinion and Magnuson-Steven Fishery Conservation and Management Act. New License for the Priest Rapids Hydroelectric Project. NMFS Log Number 2006/01457. February 1, 2008.

Washington Administrative Code, Chapter 170-548 1976. Instream Resources Protection Program for the Methow River Basin, Water Resource Inventory Area (WRIA) 48. December 28, 1976.



**Comments:** Place of use and point of diversion are defined on the cover sheet under the heading "LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED."



**No. S4-33601**  
(Public Utility District No. 2 of Grant County)  
T33N R22E, Sec 21  
WRIA-4B, Okanogan County, Washington



July, 2013  
ATTACHMENT NO. 1